

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Burlington Northern Santa Fe Railway Company; the Township of :
Tompkins in Warren County; and the State of Illinois, Department :
of Transportation. :
: T02-0024
Stipulated Agreement regarding improving public safety at the :
crossing of the Company's track with a public highway known as :
TR-36 located near Smithshire, in Tompkins Township Illinois, :
designated as crossing DOT 004 708A, milepost 198.60-M. :

ORDER

By the Commission:

On February 27, 2002, March 6, 2002, March 13, 2002, and March 18, 2002, the Staff of the Illinois Commerce Commission, Tompkins Township in Warren County, The Burlington Northern and Santa Fe Railway Company, and the Illinois Department of Transportation respectively, executed the Stipulated Agreement according to the provisions of Section 18c-7401 of the Illinois Commercial Transportation Law. The Stipulated Agreement, which is appended hereto, provides for safety improvements at the crossings of The Burlington Northern and Santa Fe Railway Company 's tracks with a public highway known as the TR-36, located near Smithshire, in Tompkins Township, Warren County, Illinois. The Stipulated Agreement contains estimates of cost to accomplish the improvements and a division of cost among the parties.

The Commission, having given due consideration to the Stipulated Agreement, finds that:

- (1) the Commission has jurisdiction over the parties and the subject matter of this proceeding;
- (2) the physical characteristics of the subject highway - railroad grade crossings, rail and highway volumes and speeds are indicated on Exhibit A, of the Stipulated Agreement, appended hereto;
- (3) the Parties agree that in the interest of public safety the improvements as set forth in Section 2 of the Stipulated Agreement, appended hereto, should be performed;
- (4) the cost for the proposed improvements should be divided among the parties and the Grade Crossing Protection Fund of the Motor Fuel Tax Law, in accordance with the Law;

- (5) it is fair and reasonable that the Secretary of the Illinois Department of Transportation through Federal Funding and the Grade Crossing Protection Fund of the Motor Fuel Tax Law, be directed to bear their respective portions of the actual cost of the proposed improvements as set forth in Section 5 of the Stipulated Agreement, appended hereto.
- (6) Commission Order #55882, dated 12/9/70, required the installation of "STOP" Signs at TR-36. When the automatic warning devices are placed in service, the existing "STOP" Signs should be removed.

IT IS THEREFORE ORDERED that the terms of the Stipulated Agreement executed by the Staff of the Illinois Commerce Commission, Tompkins Township in Warren County, The Burlington Northern and Santa Fe Railway Company, and the Illinois Department of Transportation on February 27, 2002, March 6, 2002, March 13, 2002, and March 18, 2002, respectively, be, and they are hereby accepted and required to be met by the aforesaid parties.

IT IS FURTHER ORDERED that The Burlington Northern and Santa Fe Railway Company and Tompkins Township be, and they are hereby, required and directed to proceed immediately in performing their work as set forth in Section 2 of the Stipulated Agreement, appended hereto, and shall complete its work within one (1) year from the date of this Order.

IT IS FURTHER ORDERED that the Order in Docket 55882, dated 12/9/70, required, among other things, Tompkins Township in Warren County to install and thereafter maintain "STOP" Signs at TR-36. That requirement be and it is hereby rescinded when the automatic warning devices are placed in service, and the existing "STOP" Signs shall be removed.

IT IS FURTHER ORDERED that the cost of making the improvements herein required shall be divided among the parties and the Grade Crossing Protection Fund of the Motor Fuel Tax Law, as set forth in Section 5 of the Stipulated Agreement, appended hereto.

IT IS FURTHER ORDERED that the Illinois Department of Transportation shall, within thirty (30) days of its receipt of a general layout plan, furnish to the Commission a statement of its approval or disapproval thereof, this for the information of the Commission when considering the application herein required to be filed in accordance with Form 3 of 92 Ill. Adm. Code 1535.

IT IS FURTHER ORDERED that The Burlington Northern and Santa Fe Railway Company shall file Form 3 of 92 Ill. Adm. Code 1535 of this Commission, one for each

location, showing details of the automatic warning devices herein required and shall receive approval thereof by X-Resolution before commencing the work of installation.

IT IS FURTHER ORDERED that all bills for expenditures authorized to be reimbursed from the Grade Crossing Protection Fund shall be submitted to Mr. Henry Cronister, Bureau of Local Roads and Streets, Main Office, Illinois Department of Transportation at 2300 South Dirksen Parkway, Springfield, Illinois, 62764. The Illinois Department of Transportation shall submit a copy of each bill to the Director of Processing and Information, Transportation Division of the Commission. The final bill for expenditures shall be clearly marked "Final Bill". All bills shall be submitted to the Department no later than twenty-four (24) months from the date of this Order. Authorization for reimbursement from the Grade Crossing Protection Fund shall expire twelve (12) months after the completion date specified in this Order. The Department shall, at the end of the 24th month from this Order date, de-obligate all residual funds accountable for installation costs for this project.

IT IS FURTHER ORDERED that The Burlington Northern and Santa Fe Railway Company shall at six (6) month intervals from the date of this Order until the project has been completed, submit written reports to the Director of Processing, Transportation Division of the Commission stating the progress [each] has made toward completion of the work herein required. Each progress report shall include the Commission Order Number, the Order Date, the project completion date as noted in this Order, crossing information (Inventory Number and Railroad Milepost), type of improvement, and project manager information (the name, title, mailing address, phone number and facsimile of the [Township/Railroad] employee responsible for management of the project.)

IT IS FURTHER ORDERED that The Burlington Northern and Santa Fe Railway Company shall submit to the Director of Processing, Transportation Division of the Commission within five (5) days of the completion of the work herein required, a National Inventory Update Report Form as a notice of said completion.

IT IS FURTHER ORDERED that Tompkins Township in Warren County shall submit to the Director of Processing, Transportation Division of the Commission within five (5) days of the completion of the work herein required, a written statement stating the date that all work was completed.

IT IS FURTHER ORDERED that The Burlington Northern and Santa Fe Railway Company and Tompkins Township shall each at six (6) month intervals from the date of this Order until the project has been completed, submit written reports to the Director of Processing, Transportation Division of the Commission stating the status of expenditures of the total project and percentage of completion of the project. If the

project is behind schedule the report(s) must also include a brief explanation of the reason(s) for the delay.

IT IS FURTHER ORDERED that, subject to Section 18c-2201 and 18c-2206 of the Law, this is a final decision subject to the Administrative Review Law.

By Order of the Commission this 10th day of April, 2002.

*Richard P. Medina*³

Chairman

JUDGE
SECTION CHIEF <i>MES</i>
<i>[Signature]</i> ORDERS SUPERVISOR